IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2858 OF 2000

IN

SUIT NO.3972 OF 2000

Bajaj Auto Finance Ltd. .. Plaintiff

Vs.

Sundeep Polymers P.Ltd. and Anr... Defendants

Mr.Shyam Diwan i/b Dhru and Co. for the plaintiffs

Mr.Shraddha Hemdar i/b Majhija and Associates for the defendants

CORAM : S.U.KAMDAR, J
DATED : 25TH AUGUST, 2005

P.C.:

1. In the present motion, ad interim order has been passed on 16.10.2000 which is prior to defendant company was registered as sick industry under the provisions of Sick Industrial Companies Act, 1956. By further order dt.23.08.2002 in Notice of Motion No.2447 of 2002 this court has clarified that irrespective of registration of defendant co. under BIFR ad interim order is not affected because that was prior to company being

registered as sick industry and that the embargo under section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985 would not apply to the said order. The present motion is adjourned sine die by the learned single Judge on 4.10.02. In my opinion the present motion is not required to be kept pending. Motion can be disposed of without passing any further orders in terms of ad interim orders already passed prior to the said company is registered as sick company on 3.10.00.

2. The learned counsel for the plaintiff contends that some of the machineries are removed by defendant. The defendant on the other hand contends that the machineries are not removed by them but are taken over by the Provident Fund Authorities for their dues. The issue cannot be decided in the present Notice of Motion. The said issue is kept open. Both the parties are at liberty to take out appropriate proceedings as permissible in law for the purpose of any orders which are necessary consequent to the removal of such machineries. With the aforesaid clarification, motion no.2858 of 200 is disposed of

accordingly. However, there shall be no order as to costs. Defendant are at liberty to take out application for vacating the order of Court Receiver if permissible in law.